



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

File No. PDC04-057, Planned Development Zoning from A - Agriculture District to A(PD) Planned Development Zoning District to allow a 2-lot subdivision and 1 additional single family detached residence on an 89.3 gross acre site located on the westerly side of McKean Road, approximately 1.5 miles south of Bailey Avenue (23735 McKean Road) (Patrick Young, Owner/Developer). Council District: 10

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

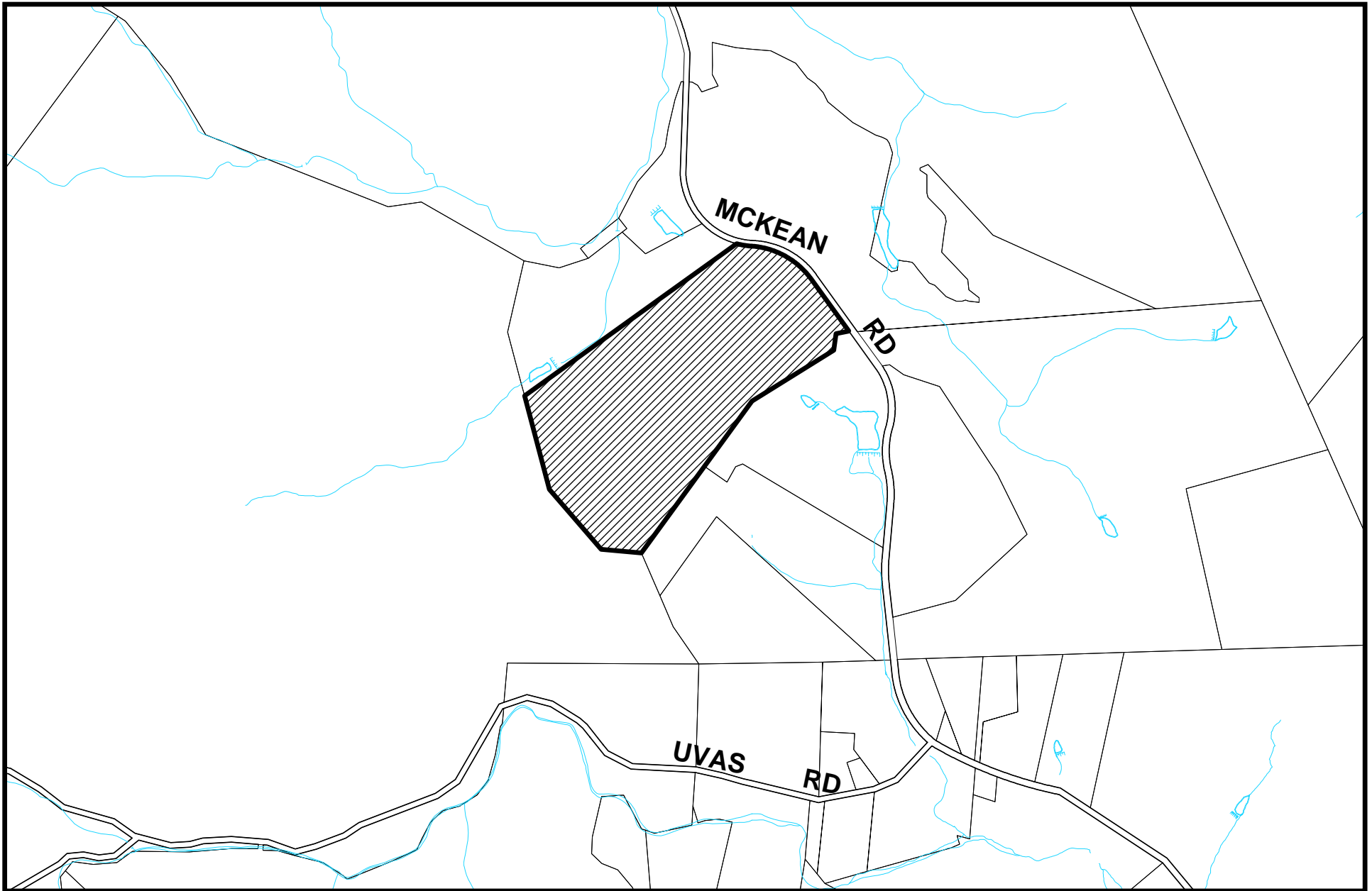
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **January 26, 2005**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **January 7, 2004** and ends on **January 26, 2005**.

A public hearing on the project described above is tentatively scheduled for the January 26, 2004 Planning Commission Hearing at 6:00 p.m. in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Santa Teresa Branch Library Branch Library, 290 International Circle, San José, CA 95119 San Jose, and online at <http://www.sanjoseca.gov/planning/eir/MND.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Lesley Xavier** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: January 7, 2005

Deputy



File No: PDC04-057

District: 10

Quad No: 170



Scale: 1" = 1200'

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Young Property

PROJECT FILE NUMBER: PDC04-057

PROJECT DESCRIPTION: Planned Development Zoning from "A" Agriculture District to A(PD) Planned Development Zoning District to allow a 2-lot subdivision and 1 additional single family detached residence on an approximately 89.3 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Westerly side of McKean Road, approximately 1.5 miles south of Bailey Avenue (23735 McKean Road); 742-11-011

COUNCIL DISTRICT: 10

NAME OF APPLICANT: Patrick and Patti Young

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Patrick Young, P.O. Box 20112, San Jose, CA 95160 (408-997-1602)

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AESTHETICS

- The design of the home shall be reviewed in accordance with the General Plan Hillside Development Policies 4, 6, 8, 9, 10, and 12.
- Public streets that are impacted by project construction activities shall be swept and washed down daily.
- Debris, rubbish and trash shall be cleared from any areas onsite that are visible from a public street.

AIR QUALITY

- The following construction practices shall be implemented during all phases of construction for the proposed project: 1) water all active construction areas at least twice daily or as often as needed to control dust emissions; 2) cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard; 3) apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas during construction of the site; 4) sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust; 5) sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material; 6) hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); 7) enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust; 8) limit traffic speeds on unpaved roads to 15 mph; 9) install sandbags or other erosion control measures to prevent silt runoff to public roadways; and 10) replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES

- Trees to remain shall be safeguarded during construction by a Tree Protection Plan, including measures such as the storage of oil, gasoline, chemicals, etc. away from trees; grading around trees only as approved, and prevention of drying out of exposed soil where cuts are made; no dumping of liquid or solid wastes in the dripline or uphill from any tree; and construction of barricades around the dripline of the trees, as outlined in the City's Tree Ordinance, that shall be approved by the City's Environmental Principal Planner prior to the issuance of a grading permit.
- If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the

initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit.

CULTURAL RESOURCES

- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- Should evidence of prehistoric cultural resources be discovered during construction, work in the immediate area of the find shall be stopped to allow adequate time for evaluation and mitigation, and a qualified professional archaeologist called in to make an evaluation; the material shall be evaluated; and if significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility shall be developed and implemented under the direction of the City's Environmental Principal Planner.

GEOLOGY AND SOILS

- A Certificate of Geologic Hazard Clearance shall be obtained from the Director of Public Works prior to any discretionary approval for all development in areas shown on the Geologic Hazards Ordinance map; and any Conditions of Clearance including, but not limited to, measures identified in the geologic evaluation, slope stabilization, surface and subsurface drainage control, offsite improvements, use restrictions, erosion control and/or maintenance guarantees for private improvements contained therein shall be implemented as specified. *A Certificate of Geologic Hazard Clearance was issued for the project on December 7, 2004.*
- The project shall be designed and constructed to (incorporate wall bracing, mudsil anchors, tie downs, and/or hinge connectors to) ensure structural stability as required by the earthquake design regulations of the Uniform Building Code.
- All earthwork and foundation plans and specifications shall comply with the recommendations of the soil and foundation investigation by Acre Soil Engineering. The

report lists approximately 45 recommendations that are included in the project for site grading, cut and fill slopes, foundations, retaining walls, slabs-on-grade and general construction, most of which reflect standard engineering practices that are not required to mitigate environmental impacts. The recommendations that specifically address potential geotechnical hazards found on the site are included above.

- An Erosion Control Plan shall be developed and implemented with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences, to the satisfaction of the City's Public Works Department at the time of grading permit approval.

HAZARDS AND HAZARDOUS MATERIALS

- New water service facilities, including a 5,000-gallon fire protection water storage tank, mains and a hydrant, shall be provided.
- Fire protection measures shall be provided, including measures such as the use of sprinklers and non-combustible roofing materials, and the clearance of combustible vegetation around the building area, to the satisfaction of the City's Fire Department; and these measures shall be incorporated into the Planned Development Permit.

HYDROLOGY AND WATER QUALITY

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities, and non-stormwater management controls, shall be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMP) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management. These measures shall be further detailed at the Planned Development Permit stage.

NOISE

- Construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

PUBLIC SERVICES

- New water service facilities, including a 5,000-gallon fire protection water storage tank, mains and a hydrant, shall be provided.
- Fire protection measures shall be provided, including measures such as the use of sprinklers and non-combustible roofing materials, and the clearance of combustible vegetation around the building area, to the satisfaction of the City’s Fire Department; and these measures shall be incorporated into the Planned Development Permit.

UTILITIES AND SERVICE SYSTEMS

- An onsite sewage disposal system, including septic tank and subsurface leaching system, shall be installed and operated in accordance with the regulations of the Santa Clara County Department of Environmental Health in conjunction with general region-wide requirements established by the San Francisco Bay Regional Water Quality Control Board’s “*Minimum Guidelines*.”
- A shared water system using the existing water well shall be designed and constructed as approved by the Santa Clara County Department of Environmental Health.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **January 26, 2005**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: January 7, 2005

Deputy

Adopted on: _____

Deputy